

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20508

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VIA LDX

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September 14, 1988

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MEMORANDUM FOR MR. MELVYN LEVITSKY
Executive Secretary
Department of State

COL. GEORGE P. COLE, JR.
Executive Secretary
Department of Defense

Executive Secretary
Central Intelligence Agency

MR. ROBIN ROSS
Chief of Staff
Department of Justice

SUBJECT: Intelligence Oversight Legislation Letter

By memo of September 14, 1988 I forwarded a letter for signature by your department/agency head concerning the Administration's opposition to the Intelligence Oversight Act of 1988, H.R. 3822. Please substitute for the draft provided earlier the attached letter, which has been cleared not only by relevant agencies but also by White House staff offices. The substitute draft differs only in minor respects from the one earlier provided, and anticipates that original signatures will be affixed to NSC (not White House) letterhead.

Details concerning securing original signatures, date of delivery and addressees remain as previously stated. Once again, we appreciate your cooperation in this effort.

Paul Schott Stevens

Paul Schott Stevens
Executive Secretary

Attachment

Revised Draft Letter on H.R. 3822

Cleared WH Staffing 7/29/88

[On NSC stationery; entire letter on single page]

Dear Mr. Speaker/Dear Leader:

The House soon will consider the "Intelligence Oversight Act of 1988" (H.R. 3822), better known as the "48-hour bill," which would establish further detailed requirements for reporting intelligence activities to the Congress. The bill would unconstitutionally infringe on the President's ability to conduct foreign policy by requiring him to ensure that, without exception, a covert action is reported to the Congress no later than forty-eight hours after the action is authorized.

The bill assumes -- falsely and dangerously -- that no set of circumstances can exist in which lives at risk or national security interests at stake would require that the President notify the Congress later than forty-eight hours after he authorizes an operation. Such circumstances will be exceedingly rare. Nevertheless, should they occur, the President must have the flexibility to ensure that the United States can act with the secrecy and dispatch that are essential to the success of such sensitive operations. The Constitution gives that authority to act to the President and his constitutional powers cannot be circumscribed as the bill proposes.

We continue to believe that the relationship between the Executive and Legislative branches in the conduct of our Nation's most sensitive foreign affairs activities should be defined by comity and quiet consultation rather than formality and confrontation. If H.R. 3822 is presented to the President in its current form, we and the President's other senior advisers will recommend that he veto the bill in order to preserve the powers of the presidency.

Sincerely,

George P. Shultz
Secretary of State

Frank C. Carlucci
Secretary of Defense

Edwin Meese III
Attorney General
of the United States

William H. Webster
Director of Central
Intelligence

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[Colin L. Powell]
[Assistant to the President]
[for National Security Affairs]

[On White House stationery; entire letter on single page]

Dear Mr. Speaker/Dear Leader:

The House soon will consider the "Intelligence Oversight Act of 1988" (H.R. 3822), better known as the "48-hour bill," to establish further detailed requirements for reporting intelligence activities to the Congress. The bill requires the President to ensure that, without exception, a covert action is reported to the Congress no later than forty-eight hours after the action is authorized.

The bill assumes -- falsely and dangerously -- that no set of circumstances can exist in which lives at risk or national security interests at stake would require that the President notify the Congress later than forty-eight hours after he authorizes an operation. Such circumstances will be exceedingly rare. Nevertheless, should they occur, the President must have the flexibility to ensure that the United States can act with the essential secrecy and dispatch. The Constitution gives that authority to act to the President and his constitutional powers cannot be circumscribed as the bill proposes.

We continue to believe that the relationship between the executive and legislative branches in the conduct of the Nation's most sensitive foreign affairs activities should be defined by comity and consultation rather than formality and confrontation. If H.R. 3822 is presented to the President in its current form, we and the President's other senior advisers will recommend that he veto the bill to preserve the powers of the presidency and the ability to conduct extremely sensitive intelligence activities.

Sincerely,

George P. Shultz
Secretary of State

Frank C. Carlucci
Secretary of Defense

Richard L. Thornburg
Attorney General
of the United States

William H. Webster
Director of Central
Intelligence

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SUBJECT: Intelligence Oversight Legislation Letter

Attached is a letter for signature by your agency head. This letter states the Administration's opposition to the Intelligence Oversight Act of 1988, H.R. 3822, which will be before the House Rules Committee on September 15, 1988 and on the House floor the week of September 19, 1988. This letter was cleared by all relevant agencies, including your agency, in July.

Alison Fortier, Director of Legislative Affairs, will be contacting your legislative affairs office to make the necessary arrangements for your agency signature on the original letter which will be addressed to Jim Wright, Speaker of the House, and Robert Michel, Minority Leader. Because there are four signatures on this letter, it will be necessary to expedite the arrangements for the signatures. We ask your cooperation in this effort.

Paul Schott Stevens
Paul Schott Stevens
Executive Secretary

Attachment
Tab A

Draft Letter on H.R. 3822